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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.   | CONFIRMATION NO. |
|--|-------------|----------------------|-----------------------|------------------|
| 10/054,364   | 11/13/2001  | Michael Worry        | 2102881-991101        | 7045             |
| 26379  | 7590        | 03/21/2006           | EXAMINER              |                  |
| DLA PIPER RUDNICK GRAY CARY US, LLP<br>2000 UNIVERSITY AVENUE<br>E. PALO ALTO, CA 94303-2248 |             |                      | NGUYEN, PHUONGCHAU BA |                  |
|  |             | ART UNIT             |                       | PAPER NUMBER     |
|  |             |                      |                       | 2616             |

DATE MAILED: 03/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                  |   |  |
|------------------------------|----------------------------------|---|--|
| <b>Office Action Summary</b> | <b>Application No.</b>           | <b>Applicant(s)</b>   |  |
|                              | 10/054,364                       | WORRY<br> |  |
|                              | Examiner<br>Phuongchau Ba Nguyen | Art Unit<br>2665  |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 11-13-1.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 2-5,7-9,12-20,22-27,30,31,35 and 36 is/are allowed.
- 6) Claim(s) 10,21,28,29,33,34 and 37 is/are rejected.
- 7) Claim(s) 1,6,10-11,25,32 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 13 November 2001 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                     | Paper No(s)/Mail Date. _____ .  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____ .                                  |

***Claim Objections***

1. Claims 1, 6, 10-11, 25 and 32 are objected to because of the following informalities:

- Claim 6, line 3, "a controller" should be changed to  
---the controller---
- Claim 6, line 3, "the reprogrammable controller" should be changed to ---the controller--- to avoid lack of antecedent basis.
- Claim 6, lines 8 & 14-15, ---reprogramming--- should be inserted before the "data" to make the claim clearer.
- Claim 6, line 17, ---reprogrammable--- should be inserted before the "information" to make the claim more clear.
- Claim 6 (line 12) & claim 1 (line 9), "via the computer network" should be deleted, to avoid a redundant limitation.
- Claims 10 and 25, "claim1" should be changed to ---claim 1---.
- Claim 11, line 1, "peforming" should be changed to  
---performing---.
- Claim 32 is objected to under 37 CFR 1.75(c) as being in

improper form because a multiple dependent claim should refer to other claims in the alternative only--, and/or, --cannot depend from any other multiple dependent claim--. See MPEP § 608.01(n). Accordingly, the claim has not been further treated on the merits.

Appropriate correction is required.

***Claim Rejections – 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 10 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. Claim 10 is also rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly

connected, to make and/or use the invention. Claim 10 recited “bypass the memory” limitation that was not supported by the original specification. Claim 10 recited a limitation “bypass the memory” which is canceled out the limitation

4. The following is a quotation of the second paragraph of 35 U.S.C.

112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 10, 21, 33-34 and 37 are rejected under 35 U.S.C. 112,

second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 10 is vague and indefinite because it recited “bypass the memory”, which would cancel out the processing instruction in independent claim for storing data to the memory prior to delivery to the

target. Please clarify which processing instruction would be implemented at the controller.

Claim 21 recites the limitation "the authentication" in line 1, "the controller means" in line 2, and "the public key" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 33-34 and 37 are vague and indefinite because they are not clear of what is mean by "to enable the retrievable storage", please clarify how the retrievable storage being enabled.

***Claim Rejections – 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

7. Claims 28-29 are rejected under 35 U.S.C. 102(e) as being anticipated by Arrow (6,175,917).

**Regarding claim 29:**

Arrow (6,175,917) discloses an apparatus (VPN 115-fig.1) for reprogramming a target (end station 111), the apparatus comprising:

A sniffer (pointer memory 412 in operating system 116, fig.4), the sniffer for reading a header of a data packet, and the sniffer storing a payload of the data packet in a memory (404, fig.4) when directed to by information stored in the header (col.10, lines 2-3);

The memory for storing the payloads, the memory coupled with the sniffer (fig.4); and

An upgrade processor (routing module 724 in operating system 116) for delivering the payloads (received data packet) to the target (end station 111) (col.11, lines 22–24), the upgrade processor coupled to the memory and the target.

**Regarding claim 28:**

Arrow discloses a system for reprogramming a target via the Internet, the system comprising:

A server (VPN management station 160, fig.1), the server coupled with the Internet (public network 100, fig.1);

A controller (VPN unit 115, fig.1), the controller comprising a memory (404, fig.4);

A target (end station 111, fig.1), the target coupled with the controller,

The server (VPN management station 160, fig.1) for transmitting a plurality of data packets (configuration requests or stream of data, col.14, lines 33–52) to the controller (VPN 115) via the Internet (public network 100); and

The controller (VPN 115) for receiving the plurality of data packets (stream of data or new VPN unit operating system program, col.14, lines 33–44) and storing at least a fraction (identified file, col.14, lines 45–47) of the data packet in the memory (404, fig.4, col.9, lines 7–46), and the controller reprogramming the target with the fractions of data packets stored in the memory (col.14, lines 50–51, 59–60).

***Allowable Subject Matter***

8. The following is an examiner's statement of reasons for allowance:

Regarding claims 6–8 and 18, the prior art fails to teach a method for delivering reprogramming information to a controller, the method comprising "writing processing instructions into the header, and the processing instructions specifying that the (reprogramming) data is to be

stored in a memory prior to reprogramming the controller," which is considered in combination with other limitations, as specified in the independent claim 6.

Regarding claims 1-5, 10-17, 19-27, 30-37, the prior art fails to teach a method for delivering data to a target, the method comprising "writing processing instructions into the header, and the processing instructions specifying that the data is to be stored in a memory prior to delivery to the target," which is considered in combination with other limitations, as specified in the independent claim 1.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuongchau Ba

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Nguyen whose telephone number is 571-272-3148. The examiner can normally be reached on Monday-Friday from 10:00 a.m. to 2:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on 571-272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Phuongchau Ba Nguyen  
Examiner  
Art Unit 2665

DUCHO  
PRIMARY EXAMINER



02-27-06